

REMARKS

In the Office Action, claims 19, 20, 21, and 22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting in view of copending application no. 09/854,414; claims 19 and 20 are rejected under the judicially created doctrine of obviousness-type double patenting in view of U.S. Patent No. 6,291,498 and U.S. Patent No. 5,891,913; and claims 19 and 20 are rejected under the judicially created doctrine of obviousness-type double patenting in view of U.S. Patent No. 6,420,407 and U.S. Patent No. 5,891,913. In response, Applicant has filed herewith a Terminal Disclaimer with respect to U.S. Patent Application No. 09/854,414 and U.S. Patent Nos. 6,291,498 and 6,420,407. Therefore, the obviousness-type double patenting rejections should be withdrawn in view of same.

On page 2 of the Office Action, the Patent Office has indicated that an application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence(s) of the specification. In response, Applicant believes that a proper and timely priority claim was made in this case. In this regard, Applicant respectfully refers the Patent Office to the Preliminary Amendment that was originally filed in this case along with the other application filing papers on March 12, 2004.

In the Preliminary Amendment, the specification was amended to include the priority claim. As indicated in the priority claim, the benefit of priority extends to as early as the filing of provisional application nos. 60/154,033 and 60/154,893 filed on September 16, 1999 and September 20, 1999, respectively. As provided above, the priority claim has been amended to provide the patent number for U.S. Patent Application No. 09/675,988 and further to correct the filing date for U.S. Patent Application Serial No. 09/662,945 as filed on September 15, 2000 where it was mistakenly identified as filed on September 29, 2000.

Further, a filing receipt mailed on May 28, 2004 also indicates the priority data for this case, although it fails to identify priority based on provisional application no. 60/154,033. A copy of the filing receipt is attached herewith as Exhibit A. Applicant is also submitting concurrently with this Amendment a request for corrected filing receipt to further include the priority based on provisional application no. 60/154,033.


In view of same, Applicant believes that the priority claim for the present application has been made and thus respectfully requests that the record reflect such priority claim if not done so already.

In the Office Action, the references listed under OTHER DOCUMENTS in the PTO Form 1449 submitted on August 20, 2004 and June 25, 2004 have not been considered as allegedly not having been made available upon submission of the corresponding PTO Form 1449. Applicant believes that the references at issue as discussed above were previously submitted. Indeed, a copy of each of these references should have been found in parent application No. 09/675,988 as Applicant indicated in the Information Disclosure Statement submitted with the references at issue. Thus, Applicant should not be required to submit these references again.

However, in the spirit of cooperation and for convenience, Applicant is again submitting the references discussed above along with a corresponding PTO Form 1449, and thus, respectfully requests that the Examiner initial each of the references on the PTO Form 1449 indicating that entry of the references have been made for examination purposes. Along with these references, Applicant has also identified an additional reference on the PTO Form 1449, namely, U.S. Patent No. 6,730,691, and thus, respectfully requests that the Examiner initial this reference as well for examination purposes.

For the foregoing reasons, Applicant respectfully submits that the present application is in condition for allowance and earnestly solicits reconsideration of same. Claims 23-27 have been newly added and should be considered allowable as well in view of same.

Respectfully submitted,

BY 
Thomas C. Basso (46,541)
Cust. No. 24573

Dated: December 22, 2005